

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP**

Glenpointe Centre West

500 Frank W. Burr Boulevard

Teaneck, New Jersey 07666

(201) 928-1100

Email: mash@decotiislaw.com

*Attorneys for Plaintiff Texas Eastern Transmission, LP*

TEXAS EASTERN TRANSMISSION, LP, a  
limited partnership of the State of Delaware  
Plaintiff,

v.

0.077 Acres Of Land, More or Less, In The City  
of Jersey City, Hudson County, New Jersey;  
COLES JERSEY DEVELOPMENT CO., LLC;  
OGDEN REALTY CO.; JANE AND JOHN  
DOES 1 through 50 (fictitious name  
defendants); and ABC BUSINESS ENTITIES 1  
through 50 (fictitious name defendants),

Defendants.

Civil Action No. 14-167-SRC-CLW

**CERTIFICATION OF PETER H.  
WEGENER, ESQ.**

I, Peter H. Wegener, Esq., depose and state as follows:

1. I am an attorney at law of the State of New Jersey and partner of the law firm Bathgate, Wegener & Wolf, P.C., counsel for Defendant Ogden Realty Co. in the condemnation of permanent and temporary easements on Block 6005, Lots 7 and 13 in Jersey City and also familiar with the conveyance of Block 6005, Lots 7 and 13 from Ogden Realty Co. to Coles Jersey Development Co., LLC. As such I have personal knowledge of the facts herein.
2. Ogden Realty Co. ("Ogden") owned Block 6005, Lot 13 prior to the conveyance of the property to Coles Jersey Development Co., LLC on July 3, 2013. The permanent and

temporary easements on Lot 13 were acquired by Texas Eastern by Order of Taking entered June 28, 2012 in Docket No. 12-3412.

3. On April 8, 2013, I spoke with Jonathan Bauer, Esq. of the DeCotiis firm, who was representing Texas Eastern, LP, in the then pending condemnation case. He advised that a field change had occurred during construction to slightly shift the pipeline alignment due to the discovery of two (2) pre-existing high voltage electric lines installed in a portion of Block 6005, Lot 7. He advised that Ogden may be the owner of that portion of Lot 7 and forwarded a drawing showing the proposed pipeline alignment. (See **Exhibit A** attached).
4. As of March 2013, Hoboken Brownstone Company, by Daniel Gans and George Vallone, executed a contract to purchase property from Ogden, including Block 6005, Lot 13.
5. Around June 2013, Texas Eastern, Daniel Gans, a representative of Ogden and I negotiated a settlement offer of the condemnation action Docket No. 12-3412 for the total amount of \$3,500,000.00. Ogden had no objection to including any interest that Ogden may have had in Lot 7, since Ogden did not believe it had any interest in Lot 7. The principals of Ogden were simply satisfied to settle the condemnation case for \$3,500,000, whether Lot 7 was included or not. However, Texas Eastern expressed a material concern that Lot 7 be included.
6. After the June 2013 settlement conference, Ogden and Daniel Gans negotiated an allocation of the settlement amount of \$3,500,000.00. Attached hereto as **Exhibit B** is a true copy of a letter from me to Michael J. Ash, Esq., dated October 24, 2013 including portions of emails related to the Texas Eastern settlement. On June 11, 2013, George Vallone of Hoboken Brownstone Company emailed Paul Hennessy of Ogden to negotiate an allocation of the settlement payment by Texas Eastern. I understood the "additional permanent easement area" described by George Vallone to mean the new permanent

easement on a portion of Block 6005, Lot 7. Furthermore, on June 24, 2013, I received an email from Paul Hennessy summarizing the allocation of the settlement proceeds negotiated between Ogden and Hoboken Brownstone Company, I understood the “allocation for additional permanent taking” in the email to refer to the new permanent easement on a portion of Block 6005, Lot 7. The June 24, 2013 email from Paul Hennessy confirms that Ogden and Hoboken Brownstone Company negotiated compensation of \$255,000 to be paid to Hoboken Brownstone Company for the additional permanent easement on a portion of Block 6005, Lot 7.

7. On July 3, 2013, Ogden conveyed ownership of Block 6005, Lot 13, together with whatever interest it may have had in Block 6005, Lot 7 to “Coles Jersey Development Co. LLC, a New Jersey Limited Liability Company whose post office box is c/o Hoboken Brownstone Company, 161 14th Street, Hoboken, New Jersey 07030”, referred to as the Grantee on the deed conveying ownership from Ogden to Coles Jersey.
8. At the time of this conveyance, representatives of Ogden and Coles Jersey understood that the taking by Texas Eastern in the action bearing Docket No. 12-3412-SRC included easements on both lots 13 and 7 of Block 6005, as depicted on the Tax Map of Jersey City.
9. At the time of the closing, Daniel Gans, acted on behalf of Coles Jersey Development Co., LLC and The Hoboken Brownstone Co. and he signed a Release of all claims to any proceeds from the condemnation of easements that included Block 6005, Lot 13 and a portion of Lot 7. By letter dated July 3, 2013, I notified counsel for Texas Eastern that Hoboken Brownstone Company released any claim to compensation for the condemnation of permanent and temporary easements on Block 6005, Lots 7 and 13 and revised the draft

consent order to remove reference to Hoboken Brownstone Company. A true copy of the July 3, 2013 letter is attached as **Exhibit C**.

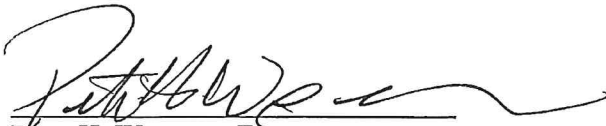
10. At the July 3, 2013 closing, Mr. Gans executed a release of all consideration "in respect of the condemnation award, or settlement in lieu of a condemnation award, arising out of the permanent and temporary condemnation by Texas Eastern Transmission, L.P., of certain real property located in the City of Jersey City, New Jersey, as specifically referenced in the matter Texas Eastern Transmission L.P. v. 1.73 Acres of Land, More or Less, et al. Docket No. 12-3412-SRC, including, but not limited to, Block 6005, Lots 7 and 13 on the Tax Map of the City of Jersey City." A true copy of the release is attached hereto as **Exhibit D**.

11. On August 6, 2013, a Consent Order For Final Judgment Fixing Compensation was entered in Docket No. 12-3412-SRC providing for a total payment of \$3,500,000.00. .

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

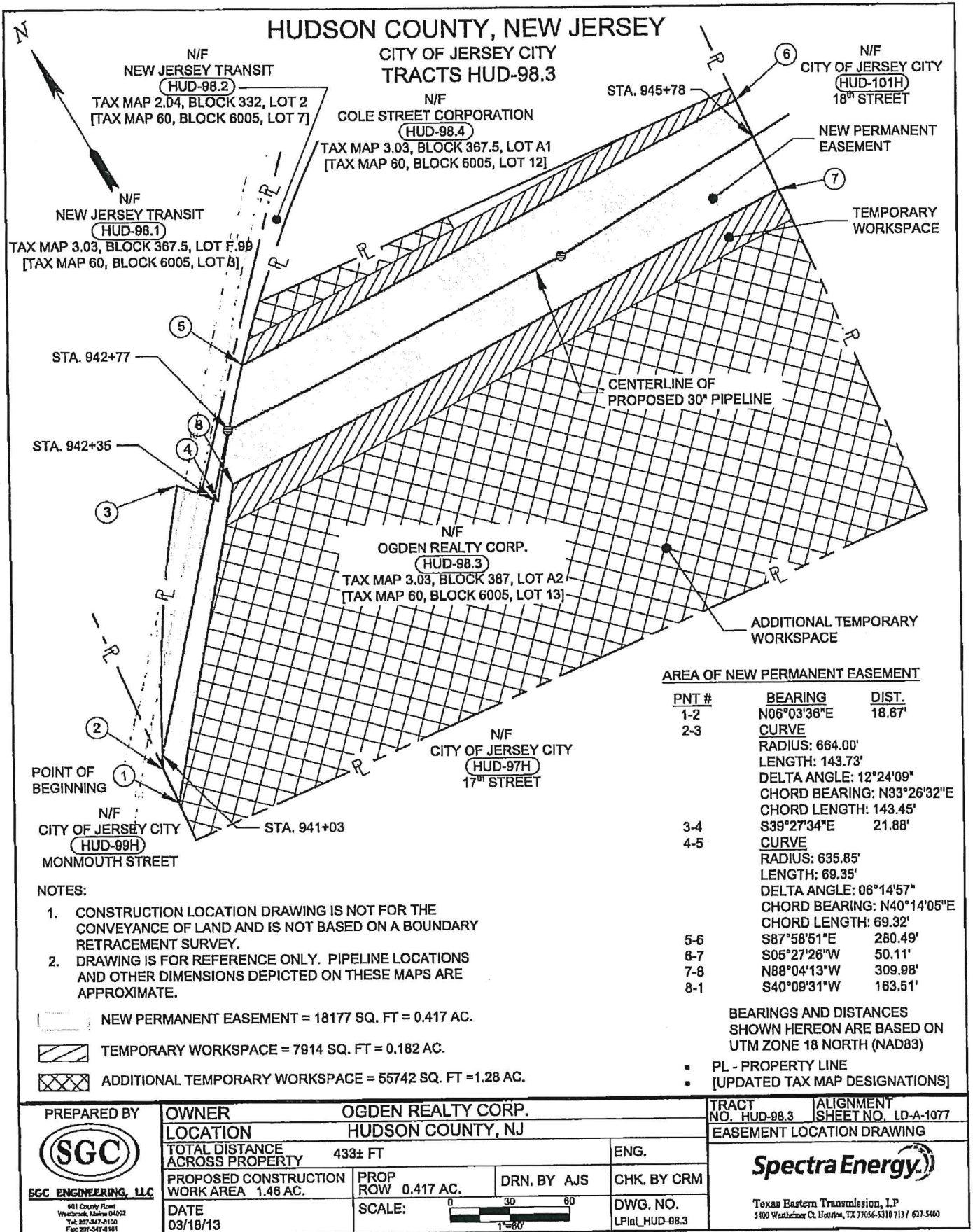
Dated:

7/12/18

  
Peter H. Wegener, Esq.

**EXHIBIT A TO CERTIFICATION OF  
PETER H. WEGNER, ESQ.**





**EXHIBIT B TO CERTIFICATION OF  
PETER H. WEGNER, ESQ.**

BATHGATE, WEGENER & WOLF

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

ONE AIRPORT ROAD

POST OFFICE BOX 2040

LAKEWOOD, NEW JERSEY 08701

PETER H. WEGENER, ESQ.

Certified Civil Trial Attorney

Direct e-mail: [pwegener@bathweg.com](mailto:pwegener@bathweg.com)

(708) 868-0888

FAX #

(708) 868-0884

E-Mail: [lew@bathweg.com](mailto:lew@bathweg.com)

October 24, 2013

*via email [MAsh@decotiislaw.com](mailto:MAsh@decotiislaw.com)*

DeCotiis Fitzpatrick & Cole

Michael J. Ash, Esquire

Glenpointe Centre West

500 Frank W. Burr Boulevard

Teaneck, NJ 07666

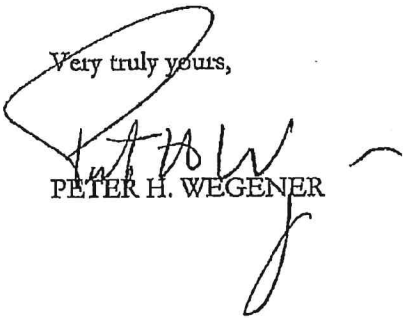
re: Texas Eastern Transmission v.  
Ogden Realty Co  
Civ. Action 12 -03412-SRC

Dear Michael:

Enclosed please find an excerpt from an email received by Paul Hennessey on behalf of Ogden Realty and forwarded to us. The email was from Hoboken Brownstone and proposes a settlement of the case brought by Texas Eastern Transmission with the understanding that they would receive \$225,690, the amount being offered by Texas Eastern.

There is a subsequent email prepared after the settlement conference intending to summarize the amount of the settlement which would have gone to Hoboken Brownstone. That email is dated 6/24/2013 indicating that the amount for the "additional permanent taking" was assessed at \$255,000. Thereafter, there was a change of ownership within Hoboken Brownstone and we entered into a new contract of sale with them, whereby Hoboken Brownstone released any and all claims that they had for any monies coming from the matter of Texas Eastern v. 1.73 acres of land more or less, including but not limited to Lots 7 and 13, Block 6005. That release is dated 7/3/2013 and a copy is enclosed herewith..

Very truly yours,

  
PETER H. WEGENER

PHW/n  
Encls.



06/11/13 Received email from Paul Hennessy as follows: Paul, Here's some numbers: 1) Temporary Lease: (To be apportioned between us) Spectra leased 70,056 SF of our land for 15 months and paid us \$900,000 (\$12.85 PSF). Spectra leased 83,833 SF of your land and, if had they paid you the same \$12.85 PSF they paid us, you would have gotten \$1,077,254. But they actually paid you \$1,496,692.

2) Permanent Lease Area (Due to us) Spectra paid you \$613,408 for the original permanent easement that they now occupy. If Ray & Francis agree with us to sell Spectra the extra easement area so they don't have to bend the pipe, Spectra is proposing to pay us \$225,060 for the price of this additional permanent easement plus pay an additional \$664,840 as a settlement offer. Since it would be an additional permanent easement area, we would get the \$225,060. In order to put this to bed, Dan and I propose to split the \$664,840 with Ray and Francis if they agree right away.

*George Vallone - MBA, CRE*

President

The Hoboken Brownstone Company

161 - 14th Street

Hoboken, New Jersey 07030

Ph. # 201-792-3814

Fax # 201-792-9530

[GVallone@HBrownstone.com](mailto:GVallone@HBrownstone.com)

[www.HBrownstone.com](http://www.HBrownstone.com)

06/24/13 Rec'd email from Hennessy to PHW – The below is a summary of the numbers agreed between us and the buyer when we met with Texas Eastern

Initial offer \$2,110,100

Settlement Amount 3,500,000

Difference 1,389,900

Allocation for additional permanent taking 255,000

Total \$1,792,393.94

**EXHIBIT C TO CERTIFICATION OF  
PETER H. WEGNER, ESQ.**

BATHGATE, WEGENER & WOLF

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

ONE AIRPORT ROAD

POST OFFICE BOX 2048

LAKEWOOD, NEW JERSEY 08701

PETER H. WEGENER, ESQ.  
Certified Civil Trial Attorney  
Direct e-mail: pwegener@bathweg.com

(732) 863-0888

FAX #

(732) 863-8884

E-Mail: law@bathweg.com

July 3, 2013

*via email:* JSMITH@DECOTISLAWCOM and

regular mail

DeCotiis Fitzpatrick & Cole

Jeffrey D. Smith, Esq.

Jonathan Bauer, Esq.

Glenpointe Centre West

500 Frank W. Burr Boulevard

Teaneck, NJ 07666

re: Texas Eastern Transmission v.  
Ogden Realty Co  
Civ. Action 12 -03412-SRC

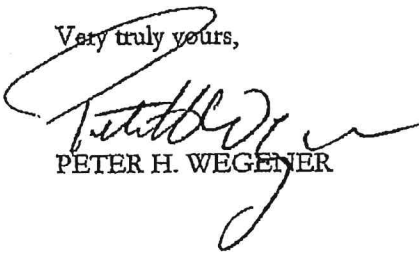
Gentlemen:

As a result of further negotiations with Hoboken Brownstone Co., that entity is no longer involved in any transactions regarding the subject property. I have requested that they provide a Release waiving any interest in the proceeds of the within condemnation action. Obviously, the form of Consent Order for Final Judgment fixing compensation previously submitted to me required revision.

The revised Consent Order for Final Judgment deleting reference to Hoboken Brownstone, to which I have affixed my consent, is enclosed herein. Please forward a fully executed copy to my office. As soon as a Release executed by Hoboken Brownstone releasing any interest in the condemnation award, judgment or settlement arising out of the permanent and temporary taking regarding the subject property and specifically referenced in this case, is available, I will forward same to you. In the interim, I assume we can proceed forthwith to effectuate the entry of the Judgment in furtherance of our agreed settlement.

Should you have any questions, please contact my office. Thank you for your cooperation.

Very truly yours,

  
PETER H. WEGENER

PHW/n

cc: Ogden Realty Co

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**DECOTIIS, FITZPATRICK & COLE, LLP**  
Glenpointe Centre West  
500 Frank W. Burr Boulevard  
Teaneck, New Jersey 07666  
(201) 928-1100  
Email: [jsmith@decotiislaw.com](mailto:jsmith@decotiislaw.com)  
*Attorneys for Plaintiff Texas Eastern Transmission, LP*

<p>TEXAS EASTERN TRANSMISSION, LP, a limited partnership of the State of Delaware</p> <p>Plaintiff,</p> <p>v.</p> <p>1.73 Acres Of Land, More or Less, In The City Of Jersey City, Hudson County, New Jersey; OGDEN REALTY CO., fee owner; LANCE LUCARELLI; NORBERT J. WALSH, mortgagee; JANE AND JOHN DOES 1 through 50 (fictitious name defendants); and ABC BUSINESS ENTITIES 1 through 50 (fictitious name defendants),</p> <p>Defendants.</p>	<p>Civil Action No. 12-3412-SRC-CLW</p> <p><b>CONSENT ORDER FOR FINAL JUDGMENT FIXING COMPENSATION</b></p>
--	--

**THIS MATTER** having been initiated by DeCotiis, FitzPatrick & Cole, LLP, attorneys for plaintiff Texas Eastern Transmission, LP (“Texas Eastern”) through the filing of a Verified Complaint and Order to Show Cause along with an Order of Taking and Motion for Immediate Possession, to acquire and enter upon property owned by defendant Ogden Realty Company, LLC (“Ogden”), Peter Wegener, Esq. of the firm of Bathgate, Wegener and Wolf, P.C. appearing; Ogden and Texas Eastern hereinafter being referred to as the “Parties”; the Parties



having agreed to enter into this Consent Order of Taking memorializing a settlement; and good cause having been shown;

**IT IS** on this \_\_\_\_ day of \_\_\_\_\_, 2013;

**ORDERED**, that Judgment be and the same is hereby entered in favor of Defendant Ogden and against Texas Eastern in the amount of Three Million Five Hundred Thousand and 00/100 (\$3,500,000.00) Dollars, which is inclusive of all claims for interest, except for interest that has accrued in the U.S. District Court Clerk's Office; and it is further

**ORDERED**, that Defendant Ogden, individually and collectively, release and waive all claims that have been brought or could have been brought in this action by Ogden, or the affiliates, parents, subsidiaries or other related entities, as well as all claims for interest on the Judgment and all claims for reimbursement of real estate taxes paid on the real property that is the subject of this action; and it is further

**ORDERED**, within 30 days of entry of this Consent Order that Texas Eastern shall pay the amount of One Million Three Hundred Eighty Nine Thousand Nine Hundred and 00/100 (\$1,389,900.00) Dollars to Ogden through their attorneys Bathgate, Wegener and Wolf, P.C., 1 Airport Road, Lakewood, NJ 08701; and it is further

**ORDERED**, that Defendant Ogden shall be entitled to withdraw Two Million One Hundred Ten Thousand One Hundred and 00/100 (\$2,110,100.00), paid on deposit with the Clerk of the U.S. District Court as provided in the Order of Taking entered in this matter on June 28, 2012, plus accrued interest, if any, without further order of the court; and it is further

**ORDERED**, that a copy of this Order shall be served upon all remaining parties to this action within seven (7) days from the date hereof.

\_\_\_\_\_  
Stanley R. Chesler, U.S.D.J.

We hereby consent to the entry of this Order.

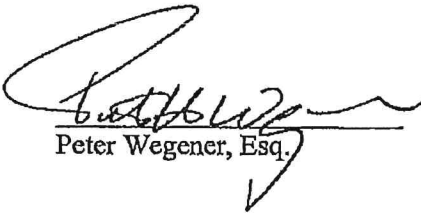
**DeCOTIIS, FITZPATRICK & COLE, LLP**

Attorneys for Plaintiff, Texas Eastern  
Transmission, L.P.

\_\_\_\_\_  
Jeffrey D. Smith, Esq.

**BATHGATE, WEGENER AND WOLF,  
P.C.;**

Attorneys for Ogden Realty Co.

  
\_\_\_\_\_  
Peter Wegener, Esq.


**EXHIBIT D TO CERTIFICATION OF  
PETER H. WEGNER, ESQ.**

RELEASE

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, The Hoboken Brownstone Company, its heirs, successors, predecessors, and assigns (collectively the "Company") hereby irrevocably and forever unconditionally release, remit, acquit, waive and discharge Ogden Realty Company, a New Jersey General Partnership, and Texas Eastern Transmission, LP, a Limited Partnership of the State of Delaware (both entities hereinafter collectively referred to herein as the "Released Companies"), for all causes of action, claims, counterclaims, suits, rights, demands, damages, injunctive or declaratory relief, costs, expenses, accounts, judgments, executions, debts, losses, obligations, rights of contribution or indemnification, attorneys' fees, and any and all other liabilities of any kind or nature or description whatsoever, whether arising at law or in equity, under Federal law, State law, common law or any other law, whether known or unknown, asserted or unasserted, express or implied, foreseen or unforeseen, suspected or unsuspected, which the Company ever had, presently has, may have, or claim or assert to have, against the Released Companies from the beginning of time until the date of this Agreement in respect of the condemnation award, or settlement in lieu of condemnation award, arising out of the permanent and temporary condemnation by Texas Eastern Transmission, LP., of certain real property located in the City of Jersey City, New Jersey, as specifically referenced in the matter of Texas Eastern Transmission L.P. v. 1.73 Acres of Land, More or Less, et.al. Docket No. 12-3412-SRC, including, but not limited to, Block 6005, Lots 7 and 13 on the Tax Map of the City of Jersey City.

This Release is intended to be construed to release any and all such claims and rights in respect of such condemnation award, or settlement in lieu of condemnation award, arising on or before the date of execution of this document to the fullest extent permitted by law.

The Hoboken Brownstone Company

By:   
Daniel Gans,  
Chief Executive Officer

7/3/13  
Date